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CHIEF CLERK'S OFFICE

MCI WorldCom Communications, Inc.

vs.

Illinois Bell Telephone Company, d/b/a
Ameritech Illinois

Docket No. 01-

0412

COMPLAINT

MCI WorldCom Communications, Inc., ("WorldCom"), formerly known as MCI Telecommunications Corporation, by its attorney, hereby files this Complaint against Illinois Bell Telephone Company d/b/a Ameritech Illinois and/or SBC Communications (referred to as "Ameritech Illinois" or "Ameritech") pursuant to Sections 13-514 and 13-515 and other sections of the Illinois Public Utilities Act ("PUA") relating to Ameritech's failure to allow customers to submit electronic authorizations ("EA") in the method proposed by WorldCom to Ameritech for changes to intraMSA and interMSA PICs¹ on lines with PIC Protection. In support of this Complaint, WorldCom states as follows:

I. THE PARTIES

1. WorldCom is a corporation duly authorized to do business in the State of Illinois, and is subject to the jurisdiction of the Commission. WorldCom has its principal Illinois offices at 205 North Michigan Avenue, Chicago, Illinois 60601, telephone number (312) 470-2121.

¹ A "PIC" refers to the primary interexchange carrier, either for interLATA services or, where applicable, intraLATA (or intraMSA) services. IntraMSA presubscription was implemented in Ameritech Illinois service territory on April 7, 1996.

2. WorldCom is a telecommunications carrier providing competitive interexchange telecommunications services throughout the State of Illinois, and is authorized to provide interMSA and intraMSA services. See Orders of the Illinois Commerce Commission, Docket No. 83-0670, June 27, 1984, May 14, 1996 and September 30, 1997; see also 220 ILCS 5/13-202, 5/13-203.

3. Ameritech, which has Illinois offices at 225 West Randolph Street, Chicago, Illinois 60601, is a local exchange carrier authorized by the Commission to provide local exchange services in Illinois pursuant to 220 ILCS 5/13-405.

II. JURISDICTION

4. Both WorldCom and Ameritech Illinois are telecommunications carriers authorized by the Commission to provide intraMSA services in Illinois pursuant to 220 ILCS 5/13-202 and 5/13-203.

5. Pursuant to Section 4-101 of the PUA, this Commission has the authority to supervise all public utilities, including telecommunications carriers, and to monitor their compliance with the PUA, any other law, and the orders of the Commission. 220 ILCS 5/4-101. The Commission has the power to hold hearings concerning any matters covered by the PUA. 220 ILCS 5/10-101.

6. The Commission also has jurisdiction under the PUA to see to it that carriers not knowingly impede the development of competition in any telecommunications service market and to issue orders with respect to complaints filed in this regard. 220 ILCS 5/13-514 and 13-515.

III. BACKGROUND

7. In December 1995 Ameritech sent a bill insert to its approximately 12 million residential and small business customers in Illinois and other states. The bill insert, which was issued approximately four months prior to the implementation of intraMSA presubscription in Illinois, urged customers to return the bill insert coupon which would enroll those customers in Ameritech's purported PIC protection program. According to the bill insert, enrollment in the so-

called PIC protection program would require that any change to the customer's telecommunications account, including a change in provider for interMSA, intraMSA or basic local exchange services, would require authorization, either written or oral, directly from the customer to Ameritech Illinois.

8. On February 13, 1996, WorldCom (then MCI), AT&T Communications of Illinois, Inc. ("AT&T") and LCI International Telecom Corp. ("LCI") filed a joint complaint with this Commission alleging that the December 1995 bill insert was misleading and anticompetitive in violation of the PUA. Docket No. 96-0075. Shortly thereafter, Sprint Communications Company, L.P. ("Sprint") filed a similar complaint which was assigned Docket No. 96-0084. These complaints were later consolidated and that proceeding hereinafter is referred to as the "*PIC Protection Marketing*" case (1996 Ill. PUC Lexis 205). In that action, WorldCom and the other interexchange carriers ("IXCs") argued that Ameritech's December 1995 bill insert was misleading, deceptive, anticompetitive, would interject confusion in the intraMSA presubscription process in Illinois, would impede or delay customers' selection of a competing intraMSA carriers, and would hinder the IXCs' ability to compete in the intraMSA market. WorldCom and the IXCs also argued that under the PIC protection program, Ameritech Illinois would be assured the last contact with the customer, thereby obtaining unfair leverage in retention marketing and/or with an opportunity to dissuade customers from changing their intraMSA toll provider to a carrier other than Ameritech Illinois. The intraMSA market was then scheduled to be opened to competition in Illinois beginning on April 7, 1996.

9. On April 3, 1996, the Commission issued its order in the *PIC Protection Marketing* case, finding that Ameritech Illinois' December 1995 bill insert was: 1) misleading because it failed to inform customers clearly that PIC protection would apply to all of their telecommunications services; and 2) was discriminatory and anti-competitive in that it established an unfair and unreasonable barriers to IXCs' ability to compete in the intraMSA market in Illinois in violation of Sections 9-241 and 13-505.2 of the PUA, 220 ILCS 5/9-241 and 5/13-505.2. *PIC Protection Marketing*, p. 10.

10. The *PIC Protection Marketing Order* also mandated that Ameritech Illinois should: 1) discontinue applying PIC protection to intraMSA services until October 7, 1996, or until an end user has selected an intraMSA service provider; 2) send to customers a bill insert educating customers about PIC protection; 3) allow three-way conference calls between Ameritech Illinois, an IXC and a customer, with the customer's consent, for the purpose of verifying PIC changes for the customer's intraMSA carrier; and 4) not attempt to retain the customer's account during these three-way calls. *PIC Protection Marketing Order*, pp. 10-11.

11. With respect to the three-way calls, the Commission's *PIC Protection Marketing Order* was especially concerned about the potential for additional anti-competitive behavior by Ameritech Illinois through retention marketing. More specifically, the Commission stated: "During telephone calls for the purpose of changing the customer's intraLATA PIC to another carrier, Respondent [Ameritech Illinois] should not attempt to retain the customer's account during the process." *PIC Protection Marketing Order*, p. 9. In other words, the purpose of the three-way call was solely to allow the customer to provide authorization to Ameritech Illinois to change the customer's PIC. The Commission also cautioned Ameritech Illinois against revealing proprietary or confidential information during such calls. *Id.*

12. In an order dated September 5, 1997, the Illinois Appellate Court, First Judicial District, affirmed the *PIC Protection Marketing Order*. Specifically, the Court upheld the Commission's findings that Ameritech Illinois' December 1995 bill insert was misleading, discriminatory and anti-competitive in that it established unfair and unreasonable barriers to interexchange carrier competition.¹ The Court agreed with the Commission that "the timing of Ameritech's bill insert and offer of PIC protection hindered the opening of the intraMSA market to competition and presented an additional hurdle to customer choice." *Illinois Bell Telephone Company v. Illinois Commerce Commission, et al.*, 291 Ill.App.3d 1108, 716 N.E.2d 873,

¹ The Court affirmed the Commission's decision under Section 13-505.2 of the PUA, but not under Section 9-241 of the PUA.

(Ill.App. 1 Dist. Sep 05, 1997) (TABLE, NO. 1-96-2146, 1-96-2166) (Rule 23 order), (slip opinion at page 17).

13. As noted above, the Commission's *PIC Protection Marketing Order* recognized the legitimate fears on the part of WorldCom and the other IXCs that Ameritech Illinois might engage in further anti-competitive acts during three-way calls. These fears were soon realized. In direct violation of the *PIC Protection Marketing Order*, Ameritech Illinois began using three-way calls to try to dissuade customers from leaving Ameritech Illinois' intraMSA and interMSA service and it had been discussing and otherwise using confidential or proprietary data with the customers during these calls. On October 27, 1997 WorldCom brought a complaint against Ameritech in Docket No. 97-0540 (1997 Ill. PUC Lexis 914), hereinafter referred to as the "*Three-Way Calling*" case.

14. Specifically, the Commission in the *Three-Way Calling* case issued its order on December 17, 1997 which concluded and found as follows:

- (A) Under the *PIC Protection Marketing* order, Ameritech was prohibited from using three-way calls to retain customers. (*PIC Protection Marketing*, p. 11) Ameritech representatives inappropriately marketed services during three-way calls. The instructions which Ameritech gave to its service representatives "... represented a knowing use of three-way calls as an opportunity to retain customers in violation of Section 13-514. The conduct of Ameritech representatives during three way calls was clearly in the nature of marketing." (*Id.*, pp. 10-11)
- (B) The conduct of Ameritech during three way calls "impeded the ability of carriers" like WorldCom to "fairly and efficiently compete for local toll customers in Illinois. The cumulative effect of the conduct was to make switching to a competitive carrier via a three-way call an unpleasant and difficult experience." Ameritech's conduct was to the "detriment of competition in the intraMSA market" and was contrary to the *PIC Protection Marketing* order and Section 13-514. (*Id.*, p. 11)
- (C) The Commission noted that "... the parties must cooperate to ensure that customers have the opportunity to switch their service as quickly as is practical." (*Id.*, p. 12)
- (D) The Commission declined "at this time" to adopt the WorldCom VRU (voice response unit) proposal. (*Id.*, p. 12). This proposal would have

required Ameritech to establish a VRU or voice mail system “. . . with a specific script that would allow carriers and customer to participate on three way calls with the VRU or voice mail system and leave a recorded message with only that information which is necessary to enable Ameritech to implement the customer request to change his or her intraMSA and/or interMSA service provider.” (*Id.*, p. 3)

- (E) The Commission ruled that during three way calls that “Ameritech representatives may only determine the switching customers’ names, telephone numbers and willingness to switch intraMSA and/or interMSA services to another carrier. There is simply nothing more for the Ameritech representatives to do but make the PIC change. The PIC change must be made within 24 hours thereafter.” (*Id.*, p. 12)
- (F) The concurring opinion of Commissioner Ruth Kretschmer noted that while she agreed with the finding that Ameritech had knowingly impeded competition, that the order regarding three way calls did not go far enough and that as a result “. . . the opportunity for customers to change carrier with the least possible confusion is hindered and the opportunity for true competition in the industry is further delayed.” (*Id.*, *concurring opinion*, p. 2).

IV. FURTHER ANTICOMPETITIVE, DISCRIMINATORY AND ILLEGAL AMERITECH CONDUCT.

15. Since the *Three-Way Calling Order*, customers who have wanted to change their interMSA and/or intraMSA carrier who have PIC Protection are still having great difficulties. For example, in January and February of 2001, approximately 28% of the PIC change orders submitted by WorldCom to Ameritech in Illinois were rejected due to PIC Protection. When the figures for the Ameritech states are removed, the national average for orders rejected due to freezes is approximately 9%. Despite efforts such as attempting to re-contact the customer so as to participate in three-way calls with Ameritech, about 50% of these orders which have been rejected because of PIC Protection are never successfully completed and the customer does not obtain his or her chosen intraMSA and/or interMSA carrier.

16. A very large number of customers are not receiving service from the carrier of

their choice. For example, in January and February of 2001, approximately 35,671 WorldCom orders (for the 222 CIC code) were rejected by Ameritech in Illinois due to PIC Protection. In 2000, there were over 330,000 such WorldCom orders rejected by Ameritech in Illinois. About half of these rejections are never corrected.

17. When WorldCom sells either interMSA or intraMSA service to residential customers in Illinois, WorldCom uses independent third party verification ("TPV") to confirm that the customer does indeed wish to switch his or her intraMSA and/or interMSA service to WorldCom. All residential orders which Ameritech rejected due to PIC Protection since the *Three Way Calling* case have been third party verified.

18. Ameritech does not provide WorldCom with information regarding whether a PIC Protection is in place on a customer's account, and most customer's either do not know or do not remember whether they have opted for PIC protection. As a result, WorldCom does not know that a valid sale will not be processed until some time after the transaction with the customer has been completed and the order is rejected by Ameritech.

19. Once an order has been rejected due to PIC Protection, WorldCom must again contact the customer and convince the customer to undertake one of a limited number of burdensome actions necessary to lift the freeze.

20. Under Ameritech's restrictive procedures, in order to lift a freeze, a customer must do one of the following: (1) contact an Ameritech service representative, (2) participate in a three-way call with Ameritech and the requesting carrier, (3) access an automated system using an 800 number, or (3) write a letter to Ameritech. Ameritech does not permit any other method of contact for lifting a freeze.

21. Each of these Ameritech methods has major shortcomings, including the fact that

each requires the customer to take a secondary action, often several days after the customer believes that he has completed his transaction. Moreover, three-way calls must be made during normal Ameritech business hours, which are not necessarily the same as WorldCom's sales hours. Ameritech's procedures are thus burdensome to customers and have a chilling effect on competition. Taken together, Ameritech does not presently offer the customers sufficient methods to change intraMSA and/or interMSA service providers where the customer has PIC Protection on the line.

22. In an effort to reduce consumer burdens while preserving the legitimate protections provided by PIC Protection, WorldCom has developed its EA proposal, which is referenced in the referenced in the introductory paragraph to this complaint. EA would allow the consumer to create an electronic voice recording of his or her oral authorization to lift a freeze and process a carrier change and allow for an electronically signed authorization to confirm the customer's choice to lift any applicable PIC Protection and to change the intraMSA and/or interMSA carriers. At the consumer's request, an independent third party will make this electronically signed authorization available to the consumer's local exchange carrier, as the executing carrier, in the form of a ".wav" file. This ".wav" file will provide the local exchange carrier with the customer's expressed and specific authorization to lift his or her PIC Protection for the sole purpose of executing the customer's requested carrier change. The ".wav" file can be simply transferred to the local exchange carrier in a number of ways, including via access to a secured web site. This ".wav" file can be opened and reviewed through commonly available software.

23. By letter dated December 11, 2000, WorldCom contacted Ameritech to present the EA proposal and suggest that the two companies discuss use of the EA (referred to in the

letter as electronic letter of authorization or ELOA). This letter is attached as Attachment "A".

24. By letter dated December 18, 2000, Ameritech rejected WorldCom's EA proposal. (This letter is attached as Attachment "B"). By letter dated January 19, 2001, WorldCom replied to Ameritech's letter and provided further information about the EA proposal. (This letter is attached as Attachment "C"). By letter dated February 28, 2001, (attached as Attachment "D") Ameritech responded by stating that it would refuse to implement the EA proposal. By letter dated April 25, 2001, (attached as Attachment "E") WorldCom sought the assistance of the Consumer Services Division to mediate this dispute. By letter dated May 14, 2001 (attached as Attachment "F") Ameritech refused to participate in the mediation.

25. Ameritech's position of refusing to implement EA favors itself over competitors in the intraMSA market. Ameritech's position of refusing to implement EA, if unchanged, would favor Ameritech over potential competitors in the interMSA market. By refusing to implement EA, Ameritech has the advantage of allowing the customer to contact it in a single telephone call to both lift a PIC Protection and to change a PIC which no interexchange competitor is able to do. In the intraMSA market, where Ameritech has a large majority of such customers, this substantially hinders the ability of customers with PIC Protection to have their choice to change carriers to a competitor implemented. In the interMSA market, which Ameritech is actively trying to join through Section 271, Ameritech's policy would similarly give Ameritech an unfair anti-competitive advantage by allowing customers a one call process to choose Ameritech and lift or suspend PIC Protection, a position which under Ameritech's present policy no other interexchange carrier can match.

26. WorldCom's EA proposal is fully consistent with applicable federal law. For example, among other applicable FCC regulations are the following:

- (e) Procedures for lifting preferred carrier freezes. All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the

following procedures for lifting a preferred carrier freeze:

(1) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written or electronically signed authorization stating his or her intent to lift a preferred carrier freeze; and

(2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze. (47 CFR § 64.1190 (e)).

27. Ameritech's activities constitutes an abuse of its position as the incumbent monopoly provider of intraMSA and local exchange services. Ameritech's conduct of refusing to implement EA results in a large number of customers in Illinois not obtaining their chosen intraMSA and interMSA carrier and further results in interexchange carriers such as WorldCom suffering unnecessary expense to follow up on these rejected orders and to participate in three-way calls. The process of trying to recontact the customer via three way calls during Ameritech business hours results in substantial customers with PIC Protection not receiving their desired intraMSA and interMSA carrier which harms competition and effectively discriminates against interexchange competitors of Ameritech. This also results in a loss of revenue to WorldCom for the delays in provisioning service and the further loss of revenue in those 50% of the orders which never get provisioned.

28. Ameritech's failure to implement WorldCom's EA method constitutes anti-competitive or otherwise illegal behavior that knowingly impedes the development of competition in the intraMSA and interMSA markets in Illinois in violation of numerous sections

of the PUA and prior Commission orders calling for Commission action in this matter, including the following.

A. A "... telecommunications carrier shall not knowingly impede the development of competition in any telecommunications service market." 220 ILCS 5/13-514

B. A telecommunications carrier is prohibited from "unreasonably refusing or delaying access by any person to another telecommunications carrier." 220 ILCS 5/13-514(5).

C. A telecommunications carrier is prohibited from "unreasonably acting or failing to act in a manner that has a substantial adverse effect on the ability of another telecommunications carrier to provide service to its customers." 220 ILCS 5/13-514(6).

D. "Whenever the Commission after a hearing had upon its own motion or upon complaint, shall find that the rules, regulations [or] practices...of any public utility...are unjust, unreasonable...improper, inadequate or insufficient, the Commission shall determine the just, reasonable...proper, adequate or sufficient rules, regulations [or] practices to be observed...enforced or employed and it shall fix the same by its order, decision, rule or regulation. The Commission shall prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished by any public utility." 220 ILCS 5/8-501.

E. "Whenever the Commission after a hearing had upon its own motion or upon complaint, shall find that the...classifications, or any of them...observed by any public utility for any service or product or commodity, or in connection therewith, or that the rules, regulations...or practices of any of them, affecting such...classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in any way in violation of the provisions of law, or that such...classifications are insufficient, the Commission shall determine the just, reasonable or sufficient...classifications, rules, regulations...or practices to be thereafter observed and in force, and shall fix the same by order as hereinafter provided. The Commission shall have power, upon a hearing, had upon its own motion or upon complaint, to investigate a single...classification, rule, regulation...or practice, or any number thereof, or the entire schedule or schedules of...classifications, rules, regulations...and practices or any thereof of any public utility, and to establish new...classifications, rules, regulations...or practices or schedule or schedules, in lieu thereof." 220 ILCS 5/9-250.

F. "The Legislature has established a pro-competitive telecommunications policy for Illinois. 'It is in the immediate interest of the People of the State of Illinois for the State to exercise its rights within the

framework of federal telecommunications policy to ensure that the economic benefits of competition in all telecommunications service markets are realized as effectively as possible.’ 220 ILCS 5/13-102(e). Section 13-103 expresses that policy as well (mandating, in subsection (f) ‘the implementation and enforcement of policies that promote effective and sustained competition in all telecommunications services markets’). 220 ILCS 5/13-103. Section 13-514 . . . is simply a further expression of that policy. In view of that clear public policy, it follows that actions inimical to competition can be unjust and unreasonable under the Public Utilities Act.” *Citizens Utility Board v. Illinois Bell Telephone Company*, Docket No. 00-0043 (2001 Ill. PUC LEXIS 124), January 23, 2001, at p. 7, note 11. “Sections 13-102, 13-103 and 13-514 unambiguously direct us to promote effective competition. Consequently, actions contrary to that policy can be unjust, unreasonable and improper within the meaning of Sections 8-501 and 9-250.” *Id.*, p. 9.

G. “Nondiscrimination in the provision of noncompetitive services. A telecommunications carrier that offers both noncompetitive and competitive services shall offer the noncompetitive services under the same rates, terms, and conditions without unreasonable discrimination to all persons, including all telecommunications carriers and competitors. A telecommunications carrier that offers a noncompetitive service together with any optional feature or functionality shall offer the noncompetitive service together with each optional feature or functionality under the same rates, terms, and conditions without unreasonable discrimination to all persons, including all telecommunications carriers and competitors.” 220 ILCS 5/13-505.2

H. Ameritech’s conduct violates the directive of the Commission in the *Three-Way Calling* case that “. . . the parties cooperate to ensure that customers have the opportunity to switch their service as quickly as is practical.” (*Three-Way Calling* order, page 12).

30. Consistent with the requirements Sections 13-515(c) and 13-515(d)(2) of the PUA, WorldCom sent letters, dated December 11, 2000, and January 19, 2001, to Ameritech requesting that Ameritech implement the EA process. (See, Attachments “A” and “C”). Also, on May 15, 2001, WorldCom sent the letter attached as Attachment “G” to Ameritech notifying Ameritech of the violations and offering Ameritech 48 hours to correct the situation, and Ameritech did not correct the situation as requested.

31. Pursuant to 83 Illinois Administrative Code Ch. I, Sec. 766.15, WorldCom is willing to agree to waive the time limit requirements in Section 5/13-515(d) of the PUA.

V. REQUESTED RELIEF

WHEREFORE, WorldCom requests as follows:

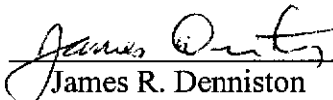
A. That the Commission find that Ameritech's refusal to implement WorldCom's EA proposal violates numerous Illinois statutes and prior Commission orders, including, but not limited to, the following: 220 ILCS 5/13-514; 220 ILCS 5/13-514(5); 220 ILCS 5/13-514(6); 220 ILCS 5/8-501; 220 ILCS 5/9-250; 220 ILCS 5/13-102(e); 220 ILCS 5/13-103; 220 ILCS 5/13-505.2; and, the *Three-Way Calling Order*.

B. That the Commission order Ameritech to immediately work with WorldCom so as to implement WorldCom's EA method of allowing customers with PIC Protection to submit PIC changes which will not be rejected by Ameritech.

C. That the Commission order such further or other relief as may be appropriate.

Respectfully submitted,

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Date Filed: May 23, 2001

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

MCI WorldCom Communications, Inc.

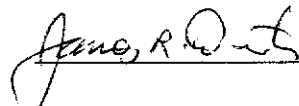
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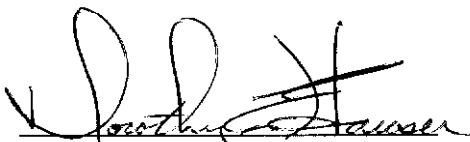
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VERIFICATION

James Denniston, being first duly sworn, deposes and states that he is an attorney for MCI WorldCom Communications, Inc., that he has read the complaint in this matter and knows the contents thereof, and that the statements therein contained are true, to the best of his knowledge, information and belief.


James R. Denniston

SUBSCRIBED AND SWORN
to this 29th day of May, 2001


Notary Public

